

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO. 5:17-CR-00012-KDB-DSC-4**

UNITED STATES OF AMERICA,

v.

VICKIE JOY POTTER,

Defendant.

ORDER

THIS MATTER is before the Court on Defendant's *pro se* motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), the First Step Act of 2018 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. (Doc. No. 107). Defendant seeks compassionate release for a third time arguing she faces a heightened risk of contracting COVID-19 while incarcerated at FMC Carswell¹ and that, due to her pre-existing medical conditions, she faces a heightened risk of a severe case of COVID-19 if she were to contract the virus again. Because Defendant has not met her burden to establish that a sentencing reduction is warranted under 18 U.S.C. § 3582(c), the Court will deny her motion.

The Government reports Defendant is fully vaccinated against COVID-19 having received her second dose of the Pfizer vaccine on January 5, 2021. (Doc. No. 111, at 2). Additionally, Defendant's health records indicate that she has been receiving regular medical care and medications for her underlying health conditions of COPD and asthma. The CDC reports that

¹ According to the Bureau of Prison's (BOP) website, FMC Carswell currently has zero inmates and zero staff with confirmed active cases of COVID-19. There have been 7 inmate deaths and no staff deaths, while 651 inmates have recovered and 3 staff have recovered. Additionally, at FMC Carswell, 284 staff have been fully inoculated and 1,145 inmates have been fully inoculated (which is approximately 78% of the current inmate population).

vaccinations protect individuals from getting sick with COVID-19, *Facts about Vaccination*, CDC (Apr. 15, 2021), www.cdc.gov/coronavirus/2019-ncov/vaccines/facts.html, and may prevent individuals from “getting seriously ill” even if they do contract the virus, *Benefits of Getting Vaccinated*, CDC (Apr. 12, 2021), www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html. The CDC also notes that vaccines currently available in the United States have been shown to be “highly effective” at preventing COVID-19.

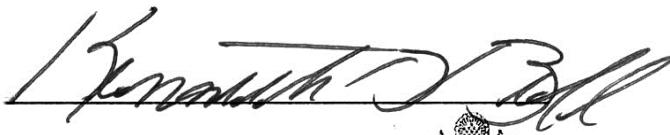
The vaccine addresses Defendant’s concerns about contracting COVID-19 and her purported risk of severe illness should she contract the virus again. Because Defendant’s vaccination significantly mitigates the risk of contracting COVID-19, Defendant cannot establish an “extraordinary and compelling” reason for compassionate release based on her concerns about contracting the virus. As such, Defendant’s Motion will be denied.

As Defendant was informed in the Court’s order denying her first motion for compassionate release, nothing in the CARES Act gives the Court a role in determining which candidates are eligible for home confinement under 18 U.S.C § 3624(c)(2).

IT IS THEREFORE ORDERED that Defendant’s Motion for Compassionate Release pursuant to 18 U.S.C. § 3582(c)(1)(A), (Doc. No. 107), is **DENIED**.

SO ORDERED.

Signed: July 26, 2021


Kenneth D. Bell
United States District Judge